

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

T.J. SUTTON,

Petitioner,

Case No. 22-12108

Honorable Linda V. Parker

v.

JOHN DAVIDS,

Respondent.

**ORDER TRANSFERRING CASE TO THE**  
**UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

T.J. Sutton (“Petitioner”) has filed a pro se petition for a second or successive writ of habeas corpus under 28 U.S.C. § 2254. (ECF No. 1.) Following a jury trial in the Wayne County Circuit Court, Petitioner challenges his 2003 convictions for the following counts: armed robbery under Mich. Comp. Laws § 750.529, felon in possession of a firearm under Mich. Comp. Laws § 750.224f, and possession of a firearm during the commission of a felony, second offense under Mich. Comp. Laws § 750.227b. Petitioner acknowledges in the title of his pleading that this is a successive petition for a writ of habeas corpus. The Court must therefore transfer his current petition to the United States Court of Appeals for the Sixth Circuit.

Petitioner previously filed a federal habeas petition challenging the same convictions at issue in this case. The petition was denied on the merits and dismissed with prejudice. *See Sutton v. Rapelje*, No. 2:09-CV-10616, 2012 WL 642559, at \*1 (E.D. Mich. Feb. 28, 2012) (Edmunds, J.), *aff'd*, No. 12-1433 (6th Cir. Dec. 31, 2012).

Before filling a habeas petition challenging a conviction previously challenged in a prior habeas petition, the petitioner must “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Federal district courts lack jurisdiction to consider successive habeas petitions absent preauthorization from the court of appeals. *See Franklin v. Jenkins*, 839 F.3d 465, 473 (6th Cir. 2016) (citing 28 U.S.C. § 2244(b)(3)). When a petitioner files a second or successive habeas petition in the district court without preauthorization, the district court must transfer the case to the court of appeals. *See* 28 U.S.C. § 1631; *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997). The Court finds that Petitioner has not obtained appellate authorization to file a successive habeas petition as required under 28 U.S.C. § 2244(b)(3)(A).

Accordingly,

**IT IS ORDERED**, that the Clerk of the Court shall transfer this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631 for a determination of whether Petitioner may file a successive petition.

**IT IS SO ORDERED.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: October 19, 2022

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, October 19, 2022, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan  
Case Manager